power" in the advanced services market.[46] This apparently is the foundation for the Commission's conclusion that the affiliate should be deemed a non-ILEC as long as it is "truly separate," and "acquires, on its own, facilities used to provide advanced services (or leases such facilities from an unaffiliated entity)...."[47] The Commission's deregulated treatment of the affiliate thus is tied directly to the affiliate's provision of advanced services.

Given the Commission's reasoning,[48] it is apparent that the affiliate -- in order to be deemed a "non-ILEC" -- cannot be allowed to provide anything but advanced services. For example, as long as the ILEC is providing basic voice service to local customers, the affiliate cannot provide such service as well because the ILEC possesses market power for voice service. Any other conclusion completely undermines the Commission's rationale that the affiliate is a non-ILEC only to the extent it is providing advanced services.

3. The affiliate must allow equal access to competing ISP's services

The NPRM proposes that some ILECs have formed their own ISPs, and asks whether an advanced services affiliate is likely to favor those ISPs.[49] MCI WorldCom believes it is certain

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[46] NPRM, ¶ 10.

[47] Id., ¶ 92.

[48] MCI WorldCom does not agree with the unspoken premise that something called "advanced services" exists completely separate and apart from basic services. The Commission already concluded that advanced services are pure transmission services, and telecommunications services that can be local exchange services. Order at paras. 35-36, 40. The Commission's attempt to parse out different "kinds" of telecommunications services appears a distinction without a legal or factual basis.

[49] NPRM, ¶ 102.

that the ILEC affiliate will give preferential treatment to the ILEC's own ISP. In fact, nothing would prevent the ILEC from integrating its ISP's operations directly into the data services affiliate. Given these scenarios, MCI WorldCom recommends that the Commission impose an equal access requirement on the ILEC affiliate so that local exchange customers can access and have the option of buying service from other ISPs.[50]

4. The ILECs must file performance and quality of service reports.

In order to detect and prevent violations of sections 272(c)(1), 272(e)(2) and 272(e)(4), the ILECs must establish performance standards and file quality of service reports. These reports should be carrier specific (upon request) and clearly detail the service that is being provided to the ILEC affiliate. The performance standards must apply across-the-board to affiliate and non-affiliates alike. The ILECs also must bear the burden of demonstrating, on a regular basis, that they actually meet their performance standards, with self-executing remedies for any failure to meet those standards. Any degradation of the quality of service provided by the ILEC to the competitive rivals of its affiliate is a significant anticompetitive threat and cannot be prevented without strict measures.

5. There should be no sunset date at this time.

Finally, it is premature for the Commission to even consider a sunset date for its separate

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[50] MCI WorldCom continues to belive the BOCs may not offer in-region information

subsidiary requirements and safeguards.[51] The rules have not yet been established, and it will take time to determine whether the ILECs are actually complying with the safeguards. Moreover, the ILEC would have every incentive to delay and forestall compliance until the appointed date arrived.

E. No Nondominance Should Be Presumed For An ILEC Affiliate

The Commission tentatively concludes that an advanced services affiliate providing interstate exchange access services should be presumed to be nondominant, and thus exempt from interstate pricing regulations and tariffing requirements.[52] MCI WorldCom disagrees. Even if the FCC adopts a full panoply of requirements and safeguards, an ILEC affiliate still could retain inequitable advantages derived from its ILEC parent.

Rather than adopt a blanket presumption of nondominance, the Commission should require each affiliate, on a case-by-case basis, to demonstrate first that it meets every aspect of the Commission's "truly separate" criteria. The affiliate also must demonstrate that it meets the Commission's general criteria for nondominance, including showing significant competition in the market it seeks to enter.[53] Only after appropriate documentation and demonstration and approval by the Commission should the affiliate be classified as nondominant. MCI WorldCom recommends that, only after one year of operation, the affiliate be allowed to file a petition

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[51] NPRM, ¶ 99.

[52] NPRM, ¶ 100.

[53] Motion of AT&T Corp. to be Declared Nondominant for International Service, Order, FCC 96-209 (1996).

seeking FCC approval, with public comment, for nondominant status.

V. ANY TRANSFERS OF ASSETS BETWEEN AN ILEC AND ITS ADVANCED SERVICES AFFILIATE MUST BE TIGHTLY REGULATED, IF NOT FORBIDDEN OUTRIGHT

MCI WorldCom believes that an affiliate wholly owned by the ILEC essentially becomes the "data" ILEC in that region, and thus should be treated as a "successor or assign" of the ILEC.[54] Accordingly, all wholly-owned affiliates should remain subject to the ILEC obligations under section 251(c). Should the Commission rule otherwise, however, the issue of which and the amount of assets that can be properly transferred between the ILEC and its affiliate becomes critical.

A. Any Transfer of Network Elements Should Confer Incumbency On An Affiliate

The NPRM seeks comment on the conditions the affiliate could receive section 251(c) facilities from the ILEC and still not be deemed an assign.[55] MCI WorldCom believes that a wholly-owned ILEC affiliate should be deemed an assign of the ILEC in any instance where it receives facilities, is able to use ILEC infrastructure or obtains services from the ILEC not available to CLECs from the ILEC. No CLEC would ever be in the position of receiving a similar transfer of ILEC elements, services or facilities. Indeed, even if the affiliate acquires facilities on its own, it should be treated as an ILEC,[56] because the acquisition will presumably be

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[54] NPRM, ¶ 104.
[55] NPRM, ¶¶ 105-112.
[56] Id., ¶ 105.

funded by the parent company.

Transfers of ILEC equipment or facilities, or the use of ILEC services, would allow the affiliate to have a significant first mover advantage in the market. Such transfers would allow the affiliate to take advantage of economies of scale and scope that would not be available to the CLECs.

The ILECs should not be permitted to transfer to the affiliate previously purchased equipment and facilities used to provide any local services, including DSLAMs and packet switches without the affiliate acquiring the 251(c)(3) obligation.[57] An affiliate must be considered an assign of the ILEC if it receives any ILEC transfer of assets, property, services or equipment. The Commission must, at the very least, require some imputation of costs to the affiliate. Further, any transfer of local loops from the ILEC to its affiliate would make an affiliate an assign of the ILEC, and subject to 251(c).[58]

There should not be a de minimis exception for "limited" transfers of equipment.[59] While the Commission does not offer a definition of "de minimis" or "limited," these measures are subjective -- what an ILEC views as minimal, a CLEC may view as significant. If the CLECs are not able to receive these transfers, neither should the affiliate. Therefore, it is imperative that the Commission not contemplate allowing any ILEC transfers to its affiliate.

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[57] Id., ¶ 106.
[58] Id., ¶ 107.
[59] Id., ¶ 108.

In the event the Commission deems it appropriate to create a de minimis exception, the cost of any equipment transfer (i.e., DSLAMs, packet switches and transport facilities) should be imputed to the affiliate to ensure that the affiliate and CLECs are on equal footing. Further, a de minimis exception must not be applicable to a transfer of any ILEC-purchased equipment, even if it has not been installed. Such an exception would allow the ILECs to take advantage of equipment purchased at volume discounts -- not available to the CLECs -- and then sell or give the equipment to the affiliate at significantly reduced rates.

In addition, there should not be different treatment for transfers of equipment ordered and/or installed prior to the release date of the NPRM, as opposed to the date of any rule adopted in this proceeding.[60] The ILECs have been positioning themselves for months now to compete with CLECs in the advanced services market. While the ILECs have argued that significant amounts of equipment have not yet been purchased, the affiliate unfairly benefits by not having to incur costs to the detriment of CLECs.

The affiliate must not have the right to purchase and then leave equipment currently located on an incumbent's premises, unless access is also given to CLECs on non-discriminatory terms and conditions.[61] As demonstrated elsewhere in the NPRM, the Commission acknowledges the CLECs' difficulties in obtaining collocation space on ILEC premises, either in

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[60] NPRM, ¶ 109.
[61] Id., ¶ 110.

the central office ("CO") or at a remote terminal.[62] The ILEC affiliate should not be allowed to leave equipment on the ILEC's premises unless it has incurred the same collocation costs and been subjected to the same procedures for that space that CLECs have encountered.

In the event the Commission allows the transfer of equipment, such transfers should not be exempt from the strict nondiscrimination requirement.[63] The incumbent should be required to offer such equipment on a nondiscriminatory basis to all entities, and such transfers still should be subject to the affiliate transaction rules.

B. Transfers of Other Assets Should Be Closely Regulated

Any other transfer of assets or resources between an ILEC and its affiliate should make the affiliate an assign of the ILEC. This includes transfers of customer accounts, employees, brand names, and OSS functionalities.[64]

Transfers of funds or assets from an ILEC's corporate parent to the affiliate should also render the affiliate an assign of the ILEC. This prohibition would help prevent the ILECs from playing endless games with the affiliate and other subsidiaries of the parent company. An affiliate's use of CPNI gathered by an ILEC should render the affiliate an assign of the ILEC because it would give the affiliate access to the same information as the ILEC, access that other CLECs will not have. Moreover, if an ILEC sells or conveys a central office or other real estate

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[62] Id., ¶ 145.
[63] NPRM, ¶ 111.
[64] Id., at ¶ 113.

in which equipment used to provide telecommunications services is located to the affiliate, the affiliate must be deemed an assign pursuant to section 251(h).

Finally, in the event transfers are permitted, the network disclosure requirements in section 251(c)(5) must be expanded and clarified.[65] The rules must be sufficient to require the ILECs to provide sufficient notice to CLECs who might be using, or planning to use, ILEC facilities being transferred to the affiliate.[66]

VI. THE COMMISSION SHOULD ADOPT ADDITIONAL COLLOCATION REQUIREMENTS TO ENSURE THAT ALL ENTITIES HAVE AN OPPORTUNITY TO COMPETE

Congress understood that it was critical that competitors be able to collocate "equipment necessary for interconnection or access to unbundled network elements" on "reasonable and nondiscriminatory" terms.[67] While there is no technical necessity for collocation,[68] CLECs, for a

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[65] Id., at ¶ 115.

[66] One must square the notion that a transfer of assets to the affiliate, from MCI WorldCom's point of view, makes the affiliate an ILEC with the Commission's proposal that the affiliate is not subject to 251(c) obligations. If the Commission determines the affiliate not to be an ILEC, such disclosure cannot be pursuant to section 251(c)(5).

[67] 47 U.S.C. ¶ 251(c)(6).

[68] There are a variety of ways in which CLECs can technically get access to unbundled loops without having to collocate in any particular ILEC end office. For example, the Michigan Public Service Commission (PSC) has ordered Ameritech to provide MCI (and other CLECS) with DLC equipment (with GR303 functionality) in Ameritech end offices. Unbundled loops would be connected to the DLC equipment, which in turn, would be connected to transport to a CLEC's own facilities. There are many variations of this -- the interoffice transport could be leased from Ameritech (as specified in the PSC's order) or the CLEC could "directly connect" its interoffice transport to the DLC equipment (without collocation). The DLC equipment could be "dedicated" to one or more CLECs or the DLC equipment could be shared among Ameritech and all CLECs.

variety of reasons, may choose to collocate additional equipment necessary to provide advanced services. MCI WorldCom nevertheless endorses the Commission's proposal to adopt national collocation rules to ensure that competitors who wish to provide their own facilities at ILEC central offices are able to do so. Indeed, if the Commission implements its proposal to allow ILECs to avoid the unbundling requirements of section 251(c)(3) through the artifice of establishing a separate subsidiary, it would be even more critical that competitors have a way to install their own equipment at the ILECs' central offices. However, the Commission should make clear that competitors who choose to lease ILEC central office equipment do not need to collocate in order to obtain access to ILEC network elements -- collocation is only one way to interconnect or obtain access to ILEC network elements. Even the most procompetitive collocation rules would not make collocation an efficient way to combine or access elements in all circumstances.

As this Commission well knows, up-front costs charged by the ILECs, ILEC claims of space limitations and the ILECs' refusal to consider any alternatives other than virtual collocation to address these space issues are critical factors resulting in excessive delays for the deployment of traditional and advanced local services.[69] MCI WorldCom therefore believes that

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[69]For example, in the nation's two largest markets, New York and California, MCI has been greatly hampered in its efforts to provide facilities-based service because of repeatedly ILEC claims that there is insufficient space to collocate in critical central offices, and by wildly inflated collocation costs averaging several hundreds of thousands of dollars for each collocation cage.

it is incumbent upon this Commission to develop minimum national standards to address these issues.

Currently, obtaining collocation space from the ILECs is a costly and arduous process, often with delayed or, in many instances, no results. Clearly, costs for collocation present an enormous barrier to entry. The ILECs impose excessive and unnecessary non-recurring costs for collocation. Such charges include application fees (per order), space, ILEC installation and maintenance, and a fee for ILEC escorts. In addition to these costs, CLECs must devote monies to their own internal costs, which include but are not limited to, costs for facility support, rental of collocation space, installation of their own equipment, cables and systems development.

Assuming, for a moment, that up-front costs are not at issue, CLECs must still endure unjustifiably protracted procedures for obtaining critically needed space. Most requests result in ILEC claims of limited space while other requests, when honored, are the subject of incredibly slow coordination of customer cut-overs, or additional time and expense needed to construct collocation cages at all ILEC switch locations. These types of obstructive behavior amount to another barrier to entry for CLECs.[70] Significantly, CLECs are being denied access to unbundled loops -- xDSL-capable or otherwise. That having been said, we urge this Commission to remain cognizant of the fact that there will be no widespread local competition if CLECs do not have

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[70] The Commission has recognized that ILECs have the incentive and capability to impede competitive entry by minimize the amount of space that is available or collocation by competitors. Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98 at ¶ 585 (rel. Aug. 6, 1998).

access to unbundled local loops.

MCI WorldCom therefore supports the Commission's efforts, in accordance with its authority under sections 251(c)(3) and 251(d)(2), to regulate the terms and conditions of access to unbundled networks elements, and thus, to adopt stringent and meaningful national, minimum requirements for collocation.[71] The implementation of uniform collocation requirements would be consistent with Congress's goal of fostering a national telecommunications policy.[72] Further, the adoption of such standards and requirements for collocation would allow CLECs to count on the certainty of securing collocation in order to establish definitive business plans for the deployment of local services.

A. Restrictions on Collocating Equipment Should Be Removed

The Commission must clarify that all equipment necessary to provide local services, advanced or traditional, may be collocated. In taking such action, the Commission must prohibit ILECs from implementing needless restrictions on collocation arrangements and equipment.[73] CLECs like MCI WorldCom would like to install common electronics that have switching functionalities. As the Commission has correctly recognized, telecommunications equipment now integrates multiple functions.[74] This would afford CLECs the ability to efficiently provide

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[71] NPRM, ¶ 123.
[72] See S. Rep. 104-23 at 27, March 30, 1995.
[73] NPRM, ¶ 129.
[74] Id., ¶ 128.

many advanced services and would reduce the amount of space needed by CLECs.

ILECs, however, have been unwilling to consider or negotiate collocation of equipment that has any type of switching functionality. U S West, for example, refused to let MCI install a Siemens Remote Digital Line Unit because it had switching capability. U S West's refusal occurred despite the fact that MCI had no intention of using the switching capabilities of the equipment. In fact, the circuit card that enabled the switching functionality was not even included with the equipment. U S West also barred MCI from collocating an ATM switch, which takes up relatively little space in the central office. Equipment with multiple functions often only requires a shelf or bay in the central office.

Any restrictions on the types of equipment that can be collocated can preclude CLECs from using vendors of their choice, or force CLECs to use a particular vendor. Efficiencies in the provision of local services requires that CLECs be permitted to employ integrated equipment in order to deter additional costs.

To ensure that an ILEC affiliate does not receive more favorable treatment, the Commission should clarify that CLECs are permitted to collocate any equipment that the affiliate is permitted to collocate, whether it is a separate subsidiary as set forth in this NPRM or an ILEC ISP affiliate.[75]

Moreover, MCI WorldCom believes that an advanced services affiliate should not be

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[75] NPRM, ¶ 129.

permitted to collocate its switching equipment if there is only room at the central office for one additional carrier.[76] Where there is a lack of space, it will become critical that competitors have access to the DSLAM. The ILEC cannot permit the affiliate to deploy the DSLAM unless the affiliate agrees to make it available for resale to competitors.[77]

Warehousing issues could be overcome if the Commission establishes a certification process for the applicants requiring that each certify its intention to collocate within the stated period of time. Anti-trafficking rules could also be established to deter illegitimate leasing of the collocation space.

CLECs must be given a level of certainty with respect to acceptable equipment. Therefore, the Commission should require ILECs to list equipment that complies with the NEBS-1 or equivalent standard. To ensure fairness in the establishment of these standards, we believe they should be developed by a neutral third-party administrator that includes industry participants, manufacturers and Commission staff, pursuant to section 256 of the Act.[78] A competitive local market requires that ILECs permit CLECs to collocate different types of equipment with a variety of functions necessary for the efficient provision of services demanded

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[76] Id., ¶ 131.

[77] In 6-12 months, the DSLAM will have the capability to host more than one carrier. The affiliate will have to purchase a DSLAM capable of such multi-hosting if it takes the last available space in the ILEC's central office.

[78] 47 U.S.C. § 256.

by consumers.[79] Consistent with this consideration, the Commission should also require that ILECs provide sufficient notice of changes to their networks.

In addition, the Commission should clarify that CLECs are permitted to collocate equipment in remote terminals. Because xDSL service requires that the DSLAM be attached directly to the copper loop, when the cooper loop terminates at a remote terminal, it is critical that competitors have the right to the functionality of the DSLAM at the remote terminal itself. Otherwise, the ILEC will be the only service provider with the ability to offer broadband services to the increasingly large group of customers who receive service off of a remote terminal. As a practical matter, this means either that, if they so choose, CLECs should be allowed to collocate their own DSLAM equipment at remote terminals, or be allowed to share the ILEC's xDSL electronic equipment. Because of the lack of space at most remote terminals, collocation is not often likely to be a practical alternative. Therefore, the Commission must make clear that the ILEC must unbundle the DSLAM itself. In the near future, this will be made possible by requiring the ILECs to install the appropriate software at their remote terminals, allowing competitors to pick up their own customer's data traffic either at the remote terminal or at the ATM switch. Presently, the only available option is to pick up the traffic at the ATM switch. The Commission should therefore make clear that ILECs should unbundle their network in each of these ways.

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[79] Any equipment collocated should only have to meet BellCore Network Equipment and Building Specifications (NEBS) safety requirements. Id.

Although there are space constraints in ILEC central offices and remote terminals, the Commission should not impose size restrictions on equipment.[80] Moreover, ILECs must not be permitted to artificially impose limitations if space is available so that future requesting CLECs are not foreclosed from collocating their equipment.

As mentioned below, MCI WorldCom believes that the Commission should also consider the establishment of a third-party administrator to implement the Commission's national standards, develop rules and reporting requirements, resolve disputes between parties and enforce the collocation regulations. As we have already observed, ILECs have little incentive to grant their competitors access to essential facilities on a nondiscriminatory basis. As demonstrated in comments filed in response to the BOCs' 706 petitions, while ILECs have denied central office space to competitors on the ground that there is no more space available they have subsequently announced roll-outs of ADSL services from that same central office.[81]

B. CLECs Should Have Alternative Methods of Collocating

ILECs have effectively denied CLECs access to unbundled loops by insisting that CLECs use physical collocation. ILECs have claimed space limitations,[82] and have required CLECs to make excessively high expenditures for the lease and preparation of the space. While

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[80] NPRM, ¶ 131.

[81] See, e.g., Comments of Covad Communications Company, CC Docket No. 98-91 at 5.

[82] See, e.g., Comments of DSL Access Telecommunications Alliance, CC Docket Nos. 98-11, 98-26, 98-32, at 9-10 (filed April 6, 1998) (DATA Comments); COVAD Comments at 13-14.

acknowledging that space in ILEC central offices may become scarce, we believe the Commission accurately concludes that ILECs be required to offer collocation arrangements to both CLECs and advanced services affiliates that minimize the space needed by each competing provider in order to promote the deployment of advanced services.[83] MCI WorldCom believes that the Commission should require ILECs to provide a series of options for collocation, including, physical, virtual, and cageless collocation. CLECs should be permitted to choose the option that best suits their implementation needs and cost constraints. As more and more competitors enter the market, collocation space promises to become even more limited. The Commission's proposed alternatives, shared collocation cages, cageless collocation and collocation cage sizes with no minimum requirements, would indeed facilitate deployment by assuring more CLECs the ability to collocate and gain access to unbundled local loops.[84] Alternative, more cost-effective methods of collocation would also spur competition, particularly, in residential and rural areas.[85] The enormous expense of physically collocating at every ILEC end office or remote terminal makes it cost prohibitive to serve any but the customers promising the largest volume of traffic. Because alternative collocation methods would help reduce CLECs' costs of entering the market, the choice of collocation methods will facilitate the

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[83] NPRM, ¶ 137.

[84] To the extent that ILECs have obsolete equipment and noncritical administrative space in their central offices, they should be required to remove them. NPRM, ¶ 142; this would promote more efficient uses of space.

[85] NPRM, ¶ 138.

deployment of services in a more ubiquitous manner.

Allowing CLECs to physically access to their own equipment would facilitate the use of virtual collocation for the provisions of advanced services. Absent such access, CLECs cannot provide service, perform maintenance, or manage assets. Currently, CLECs must rely on ILEC personnel, which is the equivalent of operating equipment while blindfolded.[86]

MCI WorldCom agrees that any virtual collocation arrangements the ILEC provides to its data or ISP affiliate should be offered to CLECs on the same terms and conditions.[87] In order to level the playing field, all competing service providers must be offered the same processes and access with respect to collocation.

There has been great interest in alternatives such as cageless and shared collocation in light of concerns about limited collocation space. Admittedly, these options do raise security issues as the Commission has acknowledged.[88] Sufficient security measures are important to all providers, but ILECs should not be permitted to unilaterally impose unjustified and costly security measures to deter CLECS seeking to access to their equipment. While CLECs want their equipment secure from abuse, reasonable measures can be taken without CLECs having to bear substantial expense to access their own equipment. CLEC assets and equipment should be

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[86] Under virtual collocation, the ILEC installs the CLEC's equipment. Upon installation, the equipment becomes the property of the ILEC. Even with an escort that is a union worker, any non-union CLEC worker that handles ILEC-owned equipment is violating union rules.

[87] Id., ¶ 148.

[88] Id., ¶ 140.

enclosed or secured in cabinets, including the operating racks, spares, power feeds, and cable conduits. Constant monitoring using security cameras would be sufficient to observe activity in the central office. ILECs should not be allowed to require escorts for CLEC technicians.[89] The ILEC should be held responsible for providing adequate security, and liable for any damage to CLEC equipment, because the ILEC is most familiar with its offices and terminals and associated security risks.

Whatever security measures may ultimately be deemed appropriate by this Commission, CLECS need access to their equipment 24 hours a day, seven days a week in order to provide timely, quality service to customers.[90] As CLECs deploy traditional local and advanced services using virtual and other collocation arrangements, they should be permitted to maintain and service their equipment in the same way as they do when using physical collocation. Maintenance and installation of equipment need to be made as quickly and efficiently as possible because any delays will extend customer outage times and acceptable installation intervals. Service intervals beyond those the ILECs experience for comparable services would put CLECs at a competitive disadvantage and leave CLECs without a meaningful opportunity to compete.

CLECs acknowledge that they will still bear significant costs in connection with their

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[89] Id., 141.

[90] See, e.g., In the Matter of MFS Communication Company, Inc., Petition for Arbitration Pursuant to 47 U.S.C. § 252(b) of the Interconnection Rates, Terms and Conditions with U S West Communications, Inc., Docket No. UT-96-323, et al., Washington Utilities and Transportation Commission, at 12 (released September 11, 1998).

collocation efforts in central offices and remote terminals. In order to reduce the cost of physical or other methods of collocation,[91] CLECs should be permitted to pay the costs for collocation on an installment basis -- assuming the costs for collocation are justifiable. While in some instances, such as Bell Atlantic in New York, smaller CLECs are permitted to pay in installments, this approach needs to be adopted on a much broader scale.

Installment payments do not diminish the costs for collocation space and construction of cages are excessive--it only lessens the up-front investment costs to allow for wider construction opportunities. In New York City, for example, estimated costs for one cage were close to one million dollars ($1,000,000.00). Interestingly, Bell Atlantic made unnecessary plans to completely recondition an otherwise "raw" floor, including installing new heating and air-conditioning systems. Because CLECs do not own the space, they will be unable to depreciate the costs associated with such things as the cage and installation of the heating and air-conditioning systems. The Commission should clarify that ILECs must allow CLECs to collocate equipment in an area that is already air-conditioned if such space exists, instead of an area where it must be installed. The Commission should also require that ILECs allow CLECs to use self-contained "shelters" that are environmentally controlled, where appropriate.

The Commission should also establish the presumption that if the ILEC offers a particular collocation arrangement, such arrangement should be presumed to be technically feasible at other

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[91] Id., 143.

similarly situated ILEC premises. So often, CLECs are forced to battle the technical feasibility of collocation requirements on a location by location basis. If the ILEC premises is similarly constructed, there should exist a presumption that it is technically feasible to collocate equipment in a similar fashion.

These minimum requirements, if adopted by the Commission, only present a foundation for the state commissions, which have the flexibility to adopt additional requirements.[92] However, the initiation of uniform collocation requirements will help establish a foundation upon which CLECS can begin to obtain collocation without the need to negotiate or arbitrate some of the more basic conditions for collocation. The state commissions have a clear role in the collocation debate under 251(c)(6). It is imperative that the state commissions adhere to the evidentiary determinations so that CLECs have recourse when ILECs fail to comply with these requirements.

C. ILECs Should Be Required to Substantiate Claims of a Lack of Collocation Space

When an ILEC denies a request for collocation due to space limitations, it should not only substantiate its claim with the state commission, it should be required to include detailed floor plans and allow competing providers and state regulators to tour the premises to confirm the lack of space.[93] Upon request, the ILEC should provide a detailed report indicating available space,[94]

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[92] Id., ¶ 140.

[93] NPRM, ¶ 146. See also, MFS, at 3, 10 (requiring U S West to report descriptions of plans and internal policies for the conversion of central office space; U S West is also required to

its policy and procedures for collocation requests, total allocated collocation space with description of equipment located therein, space being reserved for the ILEC, as well as unfilled request for space and duration of outstanding request. While this may not solve all of the problems associated with limited space, this information will allow CLECs to estimate the coverage area they can reach based on whether collocation space is likely to be available.

D. Effects of Additional Collocation Requirements on Interconnection Agreements

Many of MCI WorldCom's interconnection agreements contemplated the incorporation of provisions and/or modifications based on a change in law or negotiation.[95] Therefore, we do not foresee any modification of the Commission's rules having a detrimental impact on the interconnection agreement process.

VIII. LOCAL LOOP REQUIREMENTS

A. National Standards

Nothing has contributed more to the failure of facilities-based local competition to develop since the passage of the Act than the ILECs' refusal to comply with their statutory obligation to provide reasonable, nondiscriminatory, and cost-based unbundled access to the local loop, including related OSS. Because xDSL technology allows carriers to deploy advanced

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generally identify the work performed in each central office area and provide spatial dimensions when submitting floor plans).

[94] Id., ¶ 147.

[95] Id., ¶ 150.

services over the same local loop that currently is used for traditional voice service, it is now more important than ever to adopt and enforce national rules to ensure that ILECs provide nondiscriminatory access to this critical bottleneck element of their networks. Moreover, because xDSL technology differs from voiceband technology in the way the loop is used, and because more and more of the nation's loop facilities operate with digital loop carrier ("DLC") technology, the Commission should also adopt additional national rules to assure that regulation reflects these new developments.

B. OSS and Loop Information

The NRPM asks whether the Commission's existing OSS rules adequately ensure that CLECs have access to necessary information about loops.[96] They do not. Despite the fact the ILECs have been under a continuing obligation to implement OSS no later than January 1, 1997, not one single ILEC has complied with that rule.[97] Because providers that wish to offer service through xDSL technology need to have much more information about the customer's loop than they need to provide voice service over that same loop, the need for a standardized pre-ordering OSS that enables CLECs to identify critical characteristics of the loop is now more important than ever. In particular, the FCC should make clear that ILECs must work with CLECs and the standards bodies to develop an electronic OSS that enables competitors to determine whether the loop is capable of supporting DSL equipment. CLECs should be able to ascertain as to every

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[96] NRPM, ¶ 157.
[97] 47 C.F.R. § 51.319(f).

local loop: (1) whether the loop passes through a remote terminal, (2) whether it includes any attached electronics, (3) the condition and location of the loop, (4) loop length, and (5) electrical parameters of the loop.[98] The OSS must enable the CLEC to receive this information in the same amount of time, and in the same fashion, as the ILEC or its affiliate receives this information. Otherwise, there will be no parity between competing providers, and there will be no meaningful opportunity to compete as required under the Commission's Local Competition Order.

Just as xDSL technology makes pre-ordering OSS even more important than it is in traditional narrowband service, it also requires substantial enhancements in provisioning OSS. As we describe in more detail in what follows, xDSL service requires far more sophisticated spectrum management than is required when provisioning narrowband services. The FCC accordingly should make clear that ILECs must work with CLECs and the standards bodies to develop an electronic OSS that enables competitors to resolve spectrum management issues that arise in loop provisioning.

It is MCI WorldCom's understanding that the ILECs have not completed a comprehensive and detailed survey of existing loops for many years. Information about the current state of loop plant will be not only critically important to CLECs but useful to the Commission in crafting federal policy. Thus, the Commission also should order the ILECs to perform a detailed inventory of existing loops. This information should be included in databases accessible through

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[98] NRPM, ¶ 157.

efficient, nondiscriminatory pre-ordering OSS.

C. Specific Loop Spectrum Management Functions

The Commission has correctly acknowledged that with multiple network providers, users and types of equipment used to provide advanced data services, spectrum management issues such as compatibility and interference must be immediately addressed. The Commission, therefore, seeks comment on a number of loop management issues and asks parties to consider the impact these issues will have on the provision of quality service to consumers.

As the Commission is already aware, and MCI has indicated above, it is simply not enough for the Commission to leave good faith compliance with its orders to the ILECs. Though the Commission correctly recognized and promulgated rules requiring the ILECs to make electronic OSS available for CLEC use by January 1, 1997, the ILECs have been woefully delinquent (and shameless) in meeting this obligation. The failure to implement OSS has been one of the major barriers to entry for CLECs seeking to compete in the local market. Unfortunately, to date, neither this Commission or any state commission has taken steps to enforce that requirement. Therefore, as CLECs begin to develop and seek to offer advanced data services, there is little comfort in knowing that they must again rely on ILEC's good faith compliance and participation in standards bodies to resolve issues of such critical importance as spectrum management.

Indeed, MCI WorldCom has identified several deficiencies in the ILECs plan for DSL service deployment based on loop specifications and copper pair assignment based on spectral

management requirements. Currently, several of the ILECs are imposing loop specifications for the deployment of DSL services that are more restrictive than the industry defined specifications for the technology. DSL deployment must be based on industry-defined standards and accepted deployment guidelines, not ILEC defined guidelines and interpretations of industry accepted standards. For example, Pacific Bell has stated that it will accept for deployment in its copper network, any technology that meets the power spectral density mask defined in the ADSL standards specification (T1E1.413 Issue 2) but will not accept one of the modes of operation of the ADSL standard from T1E1.

MCI WorldCom urges this Commission to take a more forceful approach to make certain that the deployment of advanced services is not stalled or severely limited by ILEC intransigence with respect to spectrum management issues. Further, we encourage the Commission to use its authority pursuant to section 256 of the Act[99] to assist the industry in managing the myriad and complex issues that evolve as it develops loop spectrum standards.

The Commission seeks comment on how best to address loop spectrum issues, and any interference that may result from provision of advanced capability using different signal formats on copper pairs in the same bundle. MCI is a strong supporter of deployment of standards-based technologies and recognizes that the standards bodies (T1E1, ITU, ADSL Forum) have and are currently developing standards tailored to the successful transmission of multiple DSL modem

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[99] 47 U.S.C. § 256.